

Serial No. 10/054,257

Amend. In Resp. to Final Office Action of August 25, 2004

UTILITY PATENT

B&amp;D No. TN-2239

**REMARKS**

Applicants have amended Claim 1 and canceled Claims 11-12. Currently in the application therefore are Claims 1-7, 9-10 and 13-16.

The Examiner rejected Claims 1-7 and 11-12 under 35 USC § 102(b) as being anticipated by US Patent No. 6,431,042 ("Brault"). Reconsideration and withdrawal of this rejection is respectfully requested.

Brault is not proper 35 USC § 102(b) prior art because it was not published more than one year of the effective filing date for the present application. This is because the present application derives priority from US Application No. 60/265,567, which was filed on February 1, 2001, i.e., more than one year prior to Brault's issue date.

Even if Brault were prior art under any other portion of § 102, Brault would not anticipate Claim 1 and its dependent claims. Claim 1, as amended, calls for a miter saw comprising a base assembly, a table rotatably attached to the base assembly, a saw assembly pivotably attached to the table, and a wear ring non-fixedly disposed between the base assembly and the table, the wear ring having a substantially L-shaped cross-section, where the wear ring does not have any movable portions disposed between the table and base assembly.

Admittedly, Brault has a base assembly, a table rotatably attached to the base assembly, a saw assembly pivotably attached to the table, and a wear ring non-fixedly disposed between the base assembly and the table. However, the wear ring has bearings 130 disposed between the table and base assembly.

Serial No. 10/054,257

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B&amp;D No. TN -2239

By contradistinction, Claim 1 requires that the wear ring not have "any movable portions disposed between the table and base assembly." Because Brault's wear ring has bearings 130, it does have movable portions between the table and base assembly. Therefore, Brault cannot anticipate Claim 1 and its dependent claims.

The Examiner rejected Claim 9-10 under 35 USC § 102(b) as being anticipated by US Patent No. 6,418,830 ("Stumpf"). This rejection is respectfully traversed.

Stumpf is not proper 35 USC § 102(b) prior art because it was not published more than one year of the effective filing date for the present application. This is because the present application derives priority from US Application No. 60/265,567, which was filed on February 1, 2001, i.e., more than one year prior to Stumpf's issue date.

Even if Stumpf were prior art under any other portion of § 102, Stumpf would not anticipate Claims 9-10.

Claim 9 calls for a miter saw comprising a base assembly, a table rotatably attached to the base assembly, a saw assembly pivotably attached to the table, a fixed fence attached to the base assembly, and a sliding fence slidably attached to the fixed fence, the sliding fence having at least one hole for fixing an end stop fixture thereto. Claim 10 is dependent upon Claim 9.

Admittedly, Stumpf shows a miter saw comprising a base assembly, a table rotatably attached to the base assembly, a saw assembly pivotably attached to the table, a fixed fence attached to the base assembly, and a sliding fence slidably attached to the fixed fence. However, Stumpf does not show the sliding fence having at least one hole for fixing an end stop fixture thereto.

Serial No. 10/054,257

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B&amp;D No. TN-2239

By contradistinction, Claim 9 calls for "the sliding fence having at least one hole for fixing an end stop fixture thereto."

The Examiner has noted that sliding fence 132 has a hole 178 for fixing an end stop fixture 68. This is incorrect. Reference numeral "68" refers to a bolt for fixing the location of sliding fence 132. This bolt cannot be used as an end stop fixture contacting a workpiece, as shown in FIG. 14 of the present application. This is because bolt 68 is enclosed by the fixed and sliding fences and never contacts the workpiece. Because Stumpf does not show a sliding fence "having at least one hole for fixing an end stop fixture thereto," it cannot render Claims 9-10 unpatentable.

The Examiner also rejected Claims 13-16 under 35 USC § 102(b) as being anticipated by US Patent No. 4,892,022 ("Cotton"). In addition, the Examiner rejected Claim 15 under 35 USC § 103(a) as being unpatentable over Cotton in view of US Patent no. 5,782,001 ("Gray"). These rejections are respectfully traversed.

Claim 13 calls for a chop saw comprising a base assembly, and a saw assembly pivotably attached to the base assembly, the saw assembly comprising an upper blade guard, a plate rotatably attached to the upper blade guard, a lower blade guard rotatably attached to the plate, and a screw engaging the upper blade guard for fixing the plate, wherein at least one of the upper blade guard and plate have a first tab extending outwardly a first distance near the screw, the screw being required to be moved a second distance longer than the first distance in order to pivot the plate, the second distance being longer than distance between the lower blade guard and the upper blade guard.

Serial No. 10/054,257

Amend. In Resp. to Final Office Action of August 25, 2004

UTILITY PATENT

B&amp;D No. TN -2239

Admittedly, Cotton shows a chop saw having a base assembly, and a saw assembly pivotably attached to the base assembly, the saw assembly including an upper blade guard and a plate rotatably attached to the upper blade guard.


However, Cotton does not show a lower blade guard rotatably attached to the plate. Lower blade guard 3 is rotatably attached to the upper blade guard 2 instead.

By contradistinction, Claim 13 requires that "a lower blade guard [be] rotatably attached to the plate." Since no lower blade guard is rotatably attached to the plate, Cotton cannot anticipate Claim 13 and its dependent claims. Being that Gray does not disclose such arrangement either, the Cotton/Gray combination cannot render Claims 13-16 unpatentable.

No fee is believed due. Nonetheless, the Commissioner is authorized to charge payment of any fees due in processing this amendment, or credit any overpayment to Deposit Account No. 02-2548.

In view of the foregoing, all the claims are patentable and the application is believed to be in condition for formal allowance.

Respectfully submitted,



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